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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,893	07/09/2003	Earnest J. Sims JR.	005462.00002	8426
7590	07/01/2004		EXAMINER MORROW, JASON S	
Earnest J. Sims, Jr. 46 Brunswick Road Depew, NY 14043			ART UNIT 3612	
DATE MAILED: 07/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,893

Applicant(s)

SIMS, EARNEST J. *CS*

Examiner

Jason S. Morrow

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: 1. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: In lines 2 and 4 of page 5, applicant refers to certain figures which do not contain the reference numbers mentioned. It appears that the drawings may not be completely consistent with the specification. Also, in line 8 on page 5, the word --fasten-- is misspelled as "faster".

3. The use of the trademark VELCOR has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology "hook and loop fastener".

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

4.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, lines 2 and 3, the phrase "oil-like" is indefinite. The scope of what is claimed by the term is unascertainable.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Carey et al.

Re claim 1, Carey et al. discloses a protective lining for the cargo carrying area of a vehicle, the lining comprising a protective sheet (30, 34) generally formed in the shape of the cargo carrying space, the sheet being made of a puncture resistant material (column 2, line 50) and at least one fastening device for fastening the protective sheet to the cargo carrying space.

Re claim 2, the protective sheet is formed of a plastic material (column 2, lines 55, 56).

Re claim 4, the protective sheet is formed of a material impervious to water (column 2, lines 55, 56).

Re claim 5, the protective sheet is formed of a material impervious to oil (column 2, lines 55, 56).

Re claim 6, a plurality of fastening devices (37) is provided around the periphery of the protective sheet for fastening the protective sheet to the cargo carrying space.

Re claim 7, the fastening devices are formed of hook and loop fasteners (37).

9. Claims 1, 3, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Orphan.

Re claim 1, Orphan discloses a protective lining for the cargo carrying area of a vehicle, the lining comprising a protective sheet generally formed in the shape of the cargo carrying space (see figure 4), the sheet being made of a puncture resistant material (column 3, line 15) and at least one fastening device (column 3, lines 5-11) for fastening the protective sheet to the cargo carrying space.

Re claim 3, the protective sheet is formed of a canvas material (column 3, line 15).

Re claim 4, the protective sheet is formed of a material impervious to water (column 3, line 15).

10. Claims 1, 3, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson.

Re claim 1, Jackson discloses a protective lining for the cargo carrying area of a vehicle, the lining comprising a protective sheet generally formed in the shape of the cargo carrying space (see figure 1), the sheet being made of a puncture resistant material (column 3, line 27) and at least one fastening device for fastening the protective sheet to the cargo carrying space.

Re claim 3, the protective sheet is formed of a canvas material (column 3, line 27).

Re claim 9, the fastening devices are formed of string ties (20).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Carey et al.

Carey et al. discloses all the limitations of the claim, as applied above, except for the use of adhesive tape strips.

The examiner takes Official Notice that adhesive strips are a known alternative to hook and loop fasteners.

It would have been an obvious matter of design choice at the time the invention was made to modify a protective lining, such as that disclosed by Carey et al., to use adhesive tape

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strips instead of hook and loop fasteners, as is old and well known in the art, since applicant has not disclosed that these particular fasteners solve any stated problem or are for any particular purpose and it appears the device would operate equally well with a variety of fastening devices.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yudenfreund, Dewey, Danzo et al., Anthony, Ryan, Fitzgerald, Kincaid et al., Stanesic, Spengler, Konop et al., Smyl, Koa, Wise, Falciani, Brooker, Gibson et al., Kacar et al., Podd, and Barnard disclose vehicle cargo liners.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (703) 305-7803. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason S. Morrow

Application/Control Number: 10/614,893

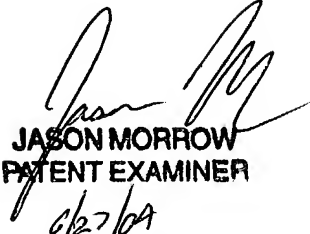
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Examiner

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June 27, 2004


JASON MORROW
PATENT EXAMINER

6/27/04